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EXAMINER	
ALBERTALLI, BRIAN LOUIS	

ART UNIT	PAPER NUMBER
2655	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/055,476	PICKOVER ET AL.	
	Examiner	Art Unit	
	Brian L Albertalli	2655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,6-10,17,18,21-23,26-30,37,38,41-43,46-50,57 and 58* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6-10,17,18,21-23,26-30,37,38,41-43,46-50,57 and 58* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendments to the claims have been entered. Claims 1, 2, 7-9, 17, 18, 21, 22, 27-29, 37, 38, 41, 42, 47-49, 57, and 58 are currently amended, and claims 4, 5, 11-16, 19, 20, 24, 25, 31-36, 39, 40, 44, 45, 51-56, 59, and 60 are cancelled.

Response to Arguments

2. In response to the argument that Arnold et al. do not disclose determining *a percentage of a message that includes a type of sentence* (see pages 11-12 of Applicant's arguments, the Examiner agrees that Arnold et al. do not explicitly disclose evaluating a given message to determine a percentage of a particular type. However, Arnold et al. clearly states that the methods for analyzing text disclosed are mere examples of possible embodiments (see column 6, lines 26-28). The preferred embodiment disclosed by Arnold et al., allows any information element to be analyzed according to the lexicon and modifying a percentage of those elements to produce a more desirable score (see column 3, lines 8-40 and Fig. 2). Therefore, the rejections to claims 1, 2, 7, 8, 21, 22, 27, 28, 41, 42, 47, and 48 under 35 U.S.C. 102(b) are withdrawn. Upon further consideration, however, new grounds of rejection are made under 35 U.S.C. 103(a) as being unpatentable over Chase (U.S. Patent 6,332,143) in view of Arnold et al.

In response to the argument that Arnold et al. do not teach specifying a size of each element (page 12, last paragraph through page 13 2nd paragraph), this limitation is met by Chase, and thus the argument is considered moot.

In response to the argument that Arnold et al. teach away from *making an element larger than a word or phrase* (page 13, 3rd paragraph), as stated above, Arnold et al. clearly states that the methods for analyzing text disclosed are mere examples of possible embodiments, and the preferred embodiment allows for any information element to be analyzed.

Furthermore, regarding the assertion that it would be impractical to implement Arnold et al. to replace entire paragraphs, this argument is not persuasive because this is not a limitation present in the claims. Independent claims 1, 21, and 41 establish that the modification of a message is performed by *changing a type of at least once sentences from a first one of said plurality of different types to a second one of said plurality of different types.* This is not equivalent to replacing an entire paragraph.

The remainder of the Applicant's arguments assert that various combinations used in the previous rejection do not disclose determining the percentage of types of sentences, however, this limitation is met by Chase, and thus the arguments are considered moot.

Drawings

3. The amendments to the drawings overcome the objections made in the previous Office Action. The objections to the drawings are withdrawn.

Claim Objections

4. Claim 42, 43, and 46 are objected to because of the following informalities:

Claim 42 is currently dependent on claim 1; however, this appears to be a typographical error. Claim 1 is a method claim, while claim 42 is an apparatus claim. For the purposes of examination, line 1 of claim 42 has been interpreted herein as reading: --The system according to claim 41, further comprising...--.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 21-23, 26-30, 37, 38, 41-43, 46-50, 57, and 58 are rejected under 35 U.S.C. 101 because:

Independent claims 21 and 41 are drawn to a "program" per se as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material per se and are not statutory because they are not capable of causing functional

change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

In this case, claim 21 is directed to a computer program product comprising "*instruction means for...*". The instruction means are clearly a computer program, and thus render claims 21-23, 26-30, 37, and 38 non-statutory.

Claim 41 is directed to a data processing system comprising *"CPU executing code for...*" The claim amounts to a description of the CPU executing code, and thus renders claims 41-43, 46-50, 57, and 58 non-statutory.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-3, 6-10, 21-23, 26-30, 41-43, and 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (U.S. Patent 6,332,143), in view of Arnold et al.

In regard to claims 1, 21, and 41, Chase disclose a method in a data processing system, said method comprising the steps of:

generating a message that includes a plurality of sentences, each one of said plurality of sentences being one of a plurality types of sentences (Fig. 2, input discourse 17 is loaded containing a plurality of sentences, see Fig. 3, 54 and column 11, lines 3-5; the sentences are either conversational or non-conversational, column 12, lines 62-66);

determining, utilizing said data processing system, a percentage of said message that includes each one of said plurality of different types of sentences (a proportion of conversational sentences to non-conversational sentences is determined, column 12, line 66 to column 13, line 2);

Chase does not disclose automatically modifying the message.

Arnold et al. disclose a method for automatically modifying a message by automatically changes a percentage of a message that includes at least one of a plurality of different types of information elements (step 4.3.1, if the operator has elected

to make a change, the new information element is inserted, column 4, lines 5-7; inserting a new information element would necessarily change the percentage of a message that included that type of information element); and

automatically changing the percentage of said message by changing a type of least one of said information elements from a first one of said plurality of different types (information elements with different scores are different "types" of information elements) to a second one of said plurality of different types (information elements are replaced with information elements with different scores, column 3, lines 30-33).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Chase to use different types of sentences as information elements to automatically modify a message by automatically changing a percentage of the sentences, in order to improve the content and impact imparted by a work intended to convey information, as taught by Arnold et al. (column 6, lines 11-13).

In regard to claims 2, 22, and 42, Chase discloses:

parsing said message into a plurality of elements (input discourse is parsed into passages, column 11, lines 3-5); and

determining, utilizing said data processing system, for one of said plurality of elements of a percentage of said one of said plurality of elements that includes each one of said plurality of different types of sentences (a proportion of conversational sentences to non-conversational sentences is determined for each passage, column 12, line 66 to column 13, line 2).

In regard to claims 3, 23, and 43, Chase discloses specifying the size of each said plurality of elements (the user selects the passage, and thus the size of the passage, column 11, lines 3-5).

In regard to claims 6, 26, and 46, Chase discloses parsing said message into a plurality of paragraphs, wherein said size of each said plurality of elements is a paragraph (the user selects a passage, a passage encompasses any part of a whole body of text, including a paragraph, column 11, lines 3-5).

In regard to claims 7, 8, 27, 28, 47, and 48, Chase does not disclose the step of automatically changing a type of at least one of said sentences.

Arnold et al. disclose adding and deleting words to sentence to change the type of sentence (for example, the words "Now" and "time" are added to the sentence, while "Soon" and "hour" are deleted, which produces more action oriented and emotional sentence type, column 5, lines 37-40).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Chase to use different types of sentences as information elements to automatically modify a message by automatically changing a percentage of the sentences, in order to improve the content and impact imparted by a work intended to convey information, as taught by Arnold et al. (column 6, lines 11-13).

In regard to claims 9, 10, 29, 30, 49, and 50, Chase does not disclose the step of automatically changing a type of at least one of said sentences.

Arnold et al. disclose font is a category that contributes to the tone (semantic content) of a message (column 5, lines 49).

Neither Chase nor Arnold et al. explicitly disclose changing the font in order to change the tone of the sentence, or changing the punctuation in order to change the tone of the sentence.

Official notice is taken that it is notoriously well known and recognized in the art that changing the font and the punctuation of a sentence would change the tone of the sentence.

It would have been obvious to one of ordinary skill in the art at the time of invention to further modify the combination of Chase and Arnold et al. to change the font and the punctuation of the sentence in order to modify the tone of the sentence, so that the font and the punctuation of the sentence would not detract from the tone the user intended.

9. Claims 17, 37, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase, in view of Arnold et al. as applied to claims 1, 21, and 41, above, and further in view of Ayyadurai (U.S. Patent 6,718,368), in further view of Bowden (*Writing Good Reports*).

Chase and Arnold et al. disclose determining a percentage of said message that includes each one of said plurality of different types of sentences and that this

percentage determines the tone of the message (a proportion of conversational sentences to non-conversational sentences is determined to determine a human interest rating, Chase, column 12, line 62 and column 12, line 66 to column 13, line 2);

Chase and Arnold et al. do not disclose identifying a recipient of said message;

determining the percentage of a last message sent to said recipient that includes each one of a plurality of different types of sentences; and

automatically changing said percentage of said message to said percentage of said last message to said recipient.

Ayyadurai discloses identifying a recipient of a message (the profile of a customer, column 5, lines 60-66); and

modifying the tone of the message in response to that customer (the customer's message is analyzed to determine the "attitude" of the message, and an appropriate response based on that attitude is generated, column 6, lines 38-47).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Chase and Arnold et al. to identify the recipient of a message and automatically changing said percentage of said message to said percentage of said last message to said recipient, in order to compose intelligent responses to a message, as taught by Ayyadurai (column 5, lines 26-28).

Chase, Arnold et al. and Ayyadurai do not disclose determining the determining the percentage of a last message sent to said recipient that includes each one of a plurality of different types of sentences.

Bowden teaches that the tone of a message must be appropriate for the recipient of the message (the tone must be right for the particular readership, page 49, line 16).

It would have been obvious to one of ordinary skill in the art at the time of invention to further modify the combination of Chase, Arnold et al. and Ayyadurai to determine the percentage of a last message sent to said recipient that includes each one of a plurality of different types of sentences, in order to send a message with an appropriate tone to the recipient.

10. Claims 18, 38, and 58 rejected under 35 U.S.C. 103(a) as being unpatentable over Chase, in view of Arnold et al. as applied to claims 1, 21, and 41, above, and further in view of Ayyadurai.

Chase and Arnold et al. disclose determining a percentage of said message that includes each one of said plurality of different types of sentences and that this percentage determines the tone of the message (a proportion of conversational sentences to non-conversational sentences is determined to determine a human interest rating, column 12, line 62 and column 12, line 66 to column 13, line 2).

Chase and Arnold et al. do not disclose generating a reply to a sender's message;

determining a percentage of said sender's message that includes each one of said plurality of different types of sentences; and

automatically changing said percentage of said message to said percentage of sender's message.

Ayyadurai discloses determining the tone of a sender's message (attitude, column 5, lines 60-66); and

generating a reply to a sender's message utilizing said ton of said senders message as said particular tone (based on the user's attitude an appropriate response is generated, column 6, lines 38-46).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Chase and Arnold et al. to identify the recipient of a message and percentage of different types of sentences to the percentage of the sender's message, in order to compose intelligent responses to a message, as taught by Ayyadurai (column 5, lines 26-28).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian L Albertalli whose telephone number is (571) 272-7616. The examiner can normally be reached on Mon - Fri, 8:00 AM - 5:30 PM, every second Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on (571) 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

W. R. YOUNG
PRIMARY EXAMINER

BLA 6/14/05